

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA,
NORTHERN DIVISION**

LEE HARTWELL,) Case No.: 2:06-CV-518
Plaintiff,) ANSWER TO AMENDED COMPLAINT
vs.)
THE CITY OF MONTGOMERY and THE)	
PERSONNEL BOARD FOR THE CITY AND)	
COUNTY OF MONTGOMERY, and KELLY) JURY TRIAL DEMANDED	
GORDON)
Defendants.)
)
)

COMES NOW the City of Montgomery and, in answer to the Complaint filed in the above-captioned case, says as follows:

1. The City of Montgomery admits the allegations set forth in items one (1) and nine (9) of Plaintiff's First Amended Complaint;
2. The City of Montgomery is without sufficient information to either admit or deny items four (4), six (6) and eleven (11) of Plaintiff's Complaint and, therefore, denies the material allegations contained therein and demands strict proof thereof;
3. The City of Montgomery denies the material allegations contained in item sixteen (16) of the Plaintiff's Complaint and demands strict proof thereof. Specifically, The City of Montgomery avers that it stipulated, in the Personnel Board hearing, that Hartwell was not being demoted for his being sick—or his possible lack of such sickness; that Hartwell was being disciplined for his failure to obey a directive of his superior officer to bring in a return-to-work slip from a doctor, among other things. It avers that at no point did the City stipulate to whether or not Hartwell was or was not, ultimately, sick.

4. The City of Montgomery denies the remaining material allegations contained in items two (2), three (3), five (5), seven (7), eight (8), twelve (12), ten (10), thirteen (13), fourteen (14), fifteen (15), and items seventeen (17) through forty-four (44) of the Complaint and demands strict proof thereof.

5. The City of Montgomery denies that the Plaintiff is entitled to the relief sought in the various claims for relief set out in the Complaint and demands strict proof thereof.

AFFIRMATIVE DEFENSES

1. The City of Montgomery pleads the affirmative defense of qualified immunity.
2. The City of Montgomery pleads the general issue.

Respectfully submitted,

JURY TRIAL DEMANDED

The defendants herein demand a trial by struck jury on all issues at bar.

/s/ Wallace D. Mills
Wallace D. Mills (MIL 090),
Attorney for the City of Montgomery

OF COUNSEL:

City of Montgomery Attorney's Office
P.O. Box 1111
Montgomery, AL 36101-1111
Phone: (334) 241-2050
Fax: (334) 241-2310

CERTIFICATE OF SERVICE

I hereby certify that on the 22d day of December, 2006, I electronically filed the foregoing with the Clerk of the court using the CM/ECF system which will send notification of such filing to the following parties or counsel:

J. Bernard Brannan, Jr., Esq.
P.O. Box 307

Montgomery, AL 36101

and I hereby certify that I have also mailed by United States Postal Service the document to the above-named non-CM/ECF participants:

/s/ Wallace D. Mills
OF COUNSEL